

EXHIBIT 13

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	12CR00134(BMC)
-against-	:	United States Courthouse Brooklyn, New York
ADNAN HAUSA,	:	Monday, February 6, 2017
Defendant.	:	2:15 P.M.

TRANSCRIPT OF CRIMINAL CAUSE FOR DAUBERT HEARING
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S .

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Proceedings recorded by mechanical stenography, transcript produced by Computer-Aided Transcription.

1 Zubaydah had a reciprocal training agreement with Bin Laden,
2 but that up until a certain point, that that was, it was not,
3 per se, an al-Qaeda facility.

4 So, that's kind of, here I'm measuring sources and
5 the information from those sources against each other, trying
6 to get to the exact definition of what Abu Zubaydah's role or
7 relationship was with al-Qaeda. I guess you call it the
8 subtleties.

9 Q Now, in your report at page 4, okay?

10 MR. DRATEL: Withdrawn. Withdrawn.

11 Q In the Babar Ahmad case, you included a section of
12 testimony from Jamal al-Fadl; correct?

13 A Correct.

14 Q And that was what's called the embassy bombings trial;
15 right?

16 A Correct.

17 Q United States versus Usama Bin Laden?

18 A Correct.

19 Q Tried in the Southern District of New York in 2001.

20 A Correct.

21 Q And you cite a piece of transcript in the Babar report,
22 right?

23 A Correct.

24 Q And in brackets -- and if you need the report, I have it
25 for you. In bracketing -- well.

1 I'm going to just read you a sentence from the
2 testimony, but also as it appears in your report in Babar.
3 And this is Jamal al-Fadl testifying: We went to the hotel
4 for two days and somebody come, he give us a little lecture
5 about what going inside the war and about Jihad and about --
6 and then there are brackets and it's al-Qaeda, right?

7 And then, later on, after an ellipsis, it says: He
8 tells us about -- brackets, al-Qaeda -- if you go inside what
9 you have to do and what going on inside Afghanistan.

10 Now, he didn't say al-Qaeda or al-Qaeda, did he?

11 A Correct.

12 Q He said: The rule; correct?

13 A Correct.

14 Q And you put al-Qaeda in there.

15 A In brackets, yes, correct.

16 Q Yes.

17 A Correct.

18 Q So, you changed the transcript. There's no footnote that
19 you change anything, right?

20 A No, that's not.

21 Q You just put al-Qaeda there.

22 A No, the brackets are an editing mark.

23 Q So, you say the rule means al-Qaeda, right?

24 A No, no, this was a mistake. What I'm suggesting to you
25 is this was just an editing mistake.

Kohlmann - cross - Dratel

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1 Q It was an editing mistake that you repeated in the report
2 you filed here two years later, right?

3 A Correct.

4 Q Okay.

5 MR. ARIAIL: Objection, Your Honor.

6 Q So, you've done it again without any withdraw. You
7 didn't withdraw the report --

8 THE COURT: Hang on Mr. Dratel.

9 MR. ARIAIL: Objection in terms of the tone from
10 Defense Counsel; could be tone it down a little bit.

11 MR. DRATEL: I'm sorry.

12 Q You didn't change it did you?

13 A That's correct.

14 Q In fact, this Daubert was filed in this case two months
15 ago, right?

16 A I am not sure about that, but I take your word for it.

17 THE COURT: Can I know, what is the mistake? That
18 it is not al-Qaeda?

19 MR. DRATEL: That it's not al-Qaeda. It's the rule.

20 THE COURT: I am asking him.

21 THE WITNESS: The mistake, Judge, is that when I --
22 Jamal al-Fadl doesn't speak English terribly fluently. When I
23 initially read the transcript I understood that he was
24 referring to al-Qaeda. When he was saying "the rule," I
25 understood that he was trying to refer to al-Qaeda.

1 In retrospect I don't think necessarily that's the
2 case or I don't know that that is the case; however, it has no
3 material impact on what I was trying to get out of that
4 passage, which was the use of guesthouses.

5 Jamal al-Fadl is a sworn al-Qaeda member.
6 Obviously, he's talking about al-Qaeda. But in this case it
7 would have been more appropriate for me to have left it as the
8 rule and I put the editing mark. I put the brackets.

9 THE COURT: Why did it wind up in this report in my
10 case when you had already committed the error earlier?

11 THE WITNESS: It was a mistake on my part, I was not
12 even aware of it being in there.

13 MR. DRATEL: May I resume, Your Honor?

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15 (Continued on following page.)

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